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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

APR 28 2005

LARRY W. PROPPES, CLERK
CHARLESTON, SC

Elmore Braxton,)	C/A No. 2:04-21771-CMC-RSC
)	
Petitioner,)	
)	
v.)	
)	ORDER
William White, Warden – BRCI;)	
and Henry D. McMaster, Attorney)	
General for South Carolina,)	
)	
Respondents.)	
)	

Petitioner is a *pro se* inmate currently confined in the South Carolina Department of Corrections who seeks relief in this court pursuant to 28 U.S.C. § 2254. In accordance with the court's order of reference, 28 U.S.C. § 636(b), and Local Rule 73.02 (B)(2)(b) and (c) (D.S.C.), this matter was referred to United States Magistrate Judge Robert S. Carr for pre-trial proceedings and a Report and Recommendation. On March 28, 2005, the Magistrate Judge issued a Report recommending this case be dismissed in its entirety because all of Petitioner's claims were either procedurally defaulted, not cognizable in this court, or lacking in merit. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Petitioner has not filed objections to the Report and Recommendation and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the

recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation of the Magistrate Judge. Respondents' motion for summary judgment filed November 10, 2004 is hereby **granted** and this matter is dismissed with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
April 28, 2005